

**Submission
No 157**

INQUIRY INTO ELECTORAL AND POLITICAL PARTY FUNDING

Organisation: Democratic Audit of Australia
Name: Dr Phil Larkin
Position: Project Manager
Telephone:
Date received: 26/02/2008



School of Social Sciences
CANBERRA ACT 0200
T: +61 (0)2 6125 0696
F: +61 (0)2 6125 3051
E: daa@anu.edu.au
W: <http://democratic.audit.anu.edu.au>

26 February 2008

The Director
Select Committee on Electoral and Political Party Funding
Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

The Democratic Audit wishes to alert the Committee to three main aspects of New South Wales' political finance regulation – the relationship between funding regimes; the timeliness of donation disclosures; and the structure of the Election Funding Authority.

The Audit will also be making a submission to the NSW JSCEM inquiry into the conduct of the 2007 election. It is disappointing to note that in the disclosure period prior to the 2007 election, one party received more than twice as much in donations as its nearest competitor, which in turn was far in excess of any other party. Such an imbalance distorts democratic deliberation and creates an unfair environment for competitive elections. Of course it also creates an impression of undue influence on decision-making, which in turn undermines confidence in the integrity of the democratic process.

Funding Regime Relationships

This submission does not address in detail a suggested regime for New South Wales. We draw the Committee's attention to the Audit's report – *Political finance in Australia: a*

skewed and secret system, by Sally Young and Joo-Cheong Tham¹, which details problems inherent in Australian political funding regimes.

In general terms, the following practices should be adopted:

- Where there is no cap on election expenditure, strict caps should be placed on donations, in terms of what each donor may contribute to political participants.
- Donations should not be permitted from those likely to benefit directly from government decisions (e.g., government contractors, developers) or where transparency is an issue (foreign persons or entities).
- Public funding was introduced to provide parties with the resources to develop and promote policies and candidates. The combination of public funding with unlimited private funding creates an imbalance in electoral competition. Unlike public funding, private funding is not proportionate to the level of public support, particularly where incumbent parliamentarians and governments can utilise their positions to raise funds.

Donation Disclosure

A major problem with the current donation disclosure laws is a lack of timeliness in disclosure. The purpose of a donation disclosure regime is to allow electors to make an informed choice at election time. Disclosure thresholds intended to provide transparency are undermined if such transparency occurs well after the relevant event.

The current regime allows for donations to remain secret for almost five years in some cases.² While all Australian jurisdictions suffer from a similar problem, there is no reason why donations could not be disclosed, at worst, on an annual basis, and preferably on a quarterly or monthly basis in the year prior to an election. Comparable democracies overseas have introduced more timely reporting. For example, British electoral law

¹ Available online at http://democratic.audit.anu.edu.au/papers/focussed_audits/20061121_youngthamfin.pdf

² For example, the report published by the Election Funding Authority on 12 February 2008 contains details of donations made in June 2003.

requires donations to be disclosed on a quarterly basis, and then on a weekly basis during an election campaign period.

When this issue has been raised in other inquiries, parties commonly argue that reporting more frequently would create too much of an administrative burden on the party. However, the burden is no different to the obligation to lodge quarterly tax statements, and does not add any significant administrative burden. Parties should be reminded that the benefits of registration, such as receiving public funding, are balanced by obligations of transparency and accountability.

Election Funding Authority – structure

The Election Funding Authority is the only electoral management body in Australia which allows – indeed, requires – political appointees. Although there may be no suggestion of impropriety on the part of the political appointees, there is also no reason why political expertise of a partisan nature is required to carry out the Authority's responsibilities, which are quite strictly prescribed in the *Election Funding Act 1981*.

By having two partisan appointments sitting alongside the Electoral Commissioner, a perception is created that the Authority is under a form of political control and direction (and technically, this is the case). This undermines the perception of independence of the Commissioner, as Chair of the Authority. This perception of diminished independence of the Commissioner then naturally extends to the work of the Electoral Commission

The Election Funding Authority should be abolished, and its functions and responsibilities incorporated into the role of the Electoral Commission.